IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 5.1.2007

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THE HONOURABLE MR.JUSTICE R.SUDHAKAR

Writ Petition No.40406 of 2006
and
M.P.No.1 of 2006

K.Ramaraj. ... Petitioner

-Vs.-

1.The Regional Transport Authority,
Coimbatore South.

2.The Secretary,
Regional Transport Authority,
Coimbatore South. ... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the respondents to permit the petitioner to ply the Mini bus TN-37-V-8065 on the route, "Ramachettipalayam to Town Hall" via, A.R.M.Kalyanamandapam, Kunniamuthur and Ukkadam, till such time the road conditions are made good on the original route, forthwith.

For petitioner : Mr.K.Hariharan
For respondents : Mr.K.Balakrishnan,
Government Advocate

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This is the third of the drone of cases filed for almost the same relief.

2. The Writ Petition is filed for a mandamus directing the respondents to permit the petitioner to ply the Mini Bus bearing Registration No.TN-37-V-8065 on the route, "Ramachettipalayam to Town Hall" via, A.R.M.Kalyanamandapam, Kunniamuthur and Ukkadam, till such time the road conditions are made good on the original route, forthwith.

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3. On 27.10.2006, this writ petition was moved before this Court. According to the Order-sheet, a final order was passed at 11.00 a.m. Thereafter, at 1.30 p.m. Additional Government Pleader mentioned and submitted that certain clarifications are to be made. Therefore, the Court directed that the matter to be listed on 30.10.2006 for clarification. On 30.10.2006, at the request of the Additional Government Pleader, the matter was adjourned by two weeks for filing counter. The Case was directed to be listed on 13.11.2006. Thereafter, it was listed on 23.11.2006. On 23.11.2006, at request of the Government Advocate, the matter was adjourned by one week for filing counter. Again, the matter was listed on 30.11.2006 and at request adjourned to 4.12.2006. On 4.12.2006, the writ petition was admitted to call for records and Rule Nisi was issued. Notice returnable by one week was ordered in M.P.No.1 of 2006. Thereafter, the matter was listed 14.12.2006 and adjourned to 6.12.2006 and finally the matter was listed before this Court today. In spite of repeated adjournments at the request of the Additional Government Pleader, no counter-affidavit has been filed so far. In view of the pleadings made in the writ petition and the submissions made before this Court and also with the consent of the Government Advocate appearing for the respondents today, the writ petition itself is taken up for final disposal.

4. The petitioner is operating a mini bus in between Ramachettipayalam to Townhall via Marudham Nagar, Iyyappan Koil, Sundakkamuthur, Plague Mariamman Koil, Kulathuyeri, Puttuvikki, Vaiyapuripudur, Chetti Veedhi and Thernilaithidal. It is the case of the petitioner that a portion of the route between "Kulathuyeri" and "Vaiyapuripudur" is damaged and therefore, he is not able to ply the mini bus along the route. Reliance has been placed on a proceedings of the Executive Officer of the Kunniyamuthur Municipality to state that a portion of the road is under repair and a tender has been called for to relay the road and it will take at least three to six months for the road to be repaired. In that proceedings, the petitioner was requested to approach the Regional Transport Authority and get approval for deviation of the route. Accordingly, the petitioner has made a representation dated 13.9.2006 to the Regional Transport Authority to permit him to operate his mini bus through an alternative route. Since the same was not considered, the present writ petition has been filed. Learned counsel for the petitioner submitted that the first respondent, the competent authority, in several locations of the State has not taken any action to redress similar grievances and therefore the mini bus operators are before this Court one after the other. Learned counsel for the petitioner would also rely upon the following final orders of this Court to substantiate his plea that the mini bus operators therein were permitted deviation of the route by orders of Court. Such final orders were passed in

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(1) W.P.No.149 of 2004 dated 7.3.2005 and

(2) W.P.No.39373 of 2006 dated 17.10.2006

It was submitted that in spite of several adjournments, no counter has been filed and therefore prayed that the writ petition should be ordered as prayed for.

5. The mini bus route permits are granted by the respondent authority so as to enable private mini bus operators to cater to the needs of the travelling public of remote villages by providing connectivity to bigger villages, towns and cities. The mini bus provides an effective mode of transport for the people from the villages and hamlets to reach major towns. The object of such scheme and connectivity is laudable since a number of the villages and hamlets of our country are inaccessible and the people there live in isolation. In furtherance of such welfare measure, proper and motorable roads should be provided. It has now come to pass that most of the roads in the rural areas have become inaccessible due to bad road condition and lack of maintenance. Mini bus permit holders are therefore, approaching this Court for an order permitting the deviation of the route only on the ground that the roads are inaccessible in some portions and since the representation given to the respondent authorities has not evoked any response. In the present case, the representation was made on 13.9.2006 and since so far no action has been taken, the present writ petition has been filed. Learned counsel for the petitioner while relying upon the two earlier orders of this Court cited above would earnestly plead that petitioner's claim for deviation of a portion of the route should be granted until the road conditions are made good on the original route. Further, since no action has been taken by the first respondent Regional Transport Authority so far on the representation of the petitioner dated 13.9.2006, the counsel would earnestly plead that the petitioner's business is suffering as he is unable to ply the bus. The interest of the villagers in whose interest the mini bus service is provided, is affected and therefore, he prayed that this Court should grant the relief.

6. The grant of bus route permit is a function of the Regional Transport Authority in exercise of its executive function. The Regional Transport Authority while granting the permit takes into consideration several parameters that are relevant and necessary. Courts cannot supplement its views in the grant of permit. To grant any deviation in the route, is also the function of the authority and not that of the Courts. Such function has to be performed by the Regional Transport Authority by considering the claim of the route bus operators in the given facts and circumstances of each case. If the Court is called upon to give any order to deviate a particular route and to take another route, it will

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amount to interfering with the discharge of the executive functions of the authority. The Court cannot be called upon to discharge administrative functions or duties like grant of permits or for issue of deviation in routes. If such exercise is taken by Courts, then the Courts will be clogged with a number of writ petitions to grant permits or to permit the deviation of the route for so many perceivable reasons. The Court sitting under Article 226 of the Constitution of India, is not intended for grant of such orders. The executive and administrative functions should not be the burden of the Court. The Court at the best will ensure that the executive and the administrative authorities while discharging their duties do so in accordance with law and in accordance with the statutory provisions and the rules made thereunder.

7. It is, however, sad to note that the rural roads have not been properly maintained and therefore, the mini bus operators are approaching this Court one after another for a direction to permit the deviation in the original route. The various orders passed by this Court earlier only reflects the sad state of affairs. It is also unfortunate that when the mini bus operators approached the respondent authority, viz., the Regional Transport Authority, seeking their permission for grant of deviation of the route until the damaged portions of the road are repaired, no action has been taken by the Regional Transport Authority concerned to redress the grievance of the mini bus operators. Therefore, they are forced to come before this Court. The Executive Authorities of the State should bear in mind that because of their inaction and their callousness in not attending to the issues pending before them, the aggrieved persons are forced to come to Court. If timely action to redress the grievance is undertaken by the authorities, the burden of the Courts can be lessened. They are bound to look into the grievance of the public with promptitude and if it is so done, it will reduce the burden on the Courts. In this case, the Regional Transport Authority could have very well decided the representation one way or the other and the petitioner would have redressed his grievance, if any thereafter.

8. Learned Government Advocate appearing for the respondents while responding to the views of the Court, would submit that the representation dated 13.9.2006 made by the petitioner will be considered by the first respondent without any further delay after appraisal of the facts and circumstances of the case. He would further submit that the grievance of the petitioner will be redressed by the first respondent, if it is found that the claim is bona fide and subject to direction that will be issued by this Court. Counsel for the petitioner also submitted that if the Court is not inclined to issue the mandamus as prayed for, the representation made by the petitioner may be directed to be considered by the first respondent immediately.

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9. For the reasons aforesaid and considering the limited prayer now sought for by the petitioner and the submission made by the learned Government Advocate appearing for the respondents, there will be a direction to the first respondent to consider the representation dated 13.9.2006 made by the petitioner within a period of ten days from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/
Asst.Registrar

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Sub Asst.Registrar

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To

1.The Regional Transport Authority,
Coimbatore South.

2.The Secretary,
Regional Transport Authority,
Coimbatore South.

1 cc To Mr.K.Hariharan, Advocate, SR.1220.
1 cc To The Government Pleader, SR.1540.

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